

Notice of Allowability

Application No.

09/785,222

Examiner

Longbit Chai

Applicant(s)

TARBOTTON ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephone interview on 1/8/2007.
2. ☒ The allowed claim(s) is/are 1,2,4,5,8,10-20,22,23,26,28-38,40,41,44,46-54 and 58-61.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.


THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 1/8/2007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

DETAILED ACTION

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In view of Appeal Brief filed on November 22, 2006 and an authorization for this Examiner's Amendment given in a telephone interview with Kevin J. Zilka (Reg. No. 41,429) on January 8, 2007, the claimed subject matters are more distinctly pointed out as patentable features to place the application in the condition for allowance.

This application has been amended as follows:

IN THE CLAIMS

Cancel claims 3, 6, 7, 9, 21, 24, 25, 27, 39, 42, 43, 45 and 55 – 57.

Replace claims 1, 19 and 37 as follows.

Claim 1:

A computer program product comprising a computer program stored on a computer storage medium when executed operable to control a computer to

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computer to generate audit data indicative of a request to execute a computer program, said computer program comprising:

(i) computer virus scanner logic, responsive to a computer virus scan request including data identifying a computer file to be scanned for computer viruses, for performing a computer virus scan and for generating a scan result;

(ii) audit data generator logic separate from said computer virus scanner logic and being triggered by said computer virus scanner logic prior to said generating said scan result, and responsive to said data identifying said computer file to be scanned that is received from said computer virus scanner logic for simultaneously performing additional operations in parallel with said computer virus scan, said additional operations including identifying a request to execute a computer program associated with said computer file to be scanned for computer viruses by said computer virus scanner logic and, in response to identification of said request to execute said computer program, generating audit data identifying said computer program; [[and]] wherein said audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program; and

(iii) concurrent usage logic for performing a concurrent usage check for identifying a request to execute a further computer program that would result in said further computer program concurrently executing upon more than a predetermined number of computers upon a computer network; wherein said predetermined number varies with time; wherein if said concurrent usage check

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indicates that said request to execute said further computer program would result in more than said predetermined number of computers upon said computer network concurrently executing said computer program, then said request to execute said further computer program is denied.

Claim 19:

A method of generating audit data indicative era request to execute a computer program, said method comprising the steps of:

(i) responsive to a computer virus scan request within a computer virus scanner, performing a computer virus scan and generating a scan result, said computer virus scan request including data identifying a computer file to be scanned for computer viruses;

(ii) triggering operation of an audit data generator which is separate from said computer virus scanner, using said computer virus scanner prior to said generating said scan result, said audit dam generator being responsive to said data identifying said computer file to be scanned that is received from said computer virus scanner for simultaneously performing additional operations in parallel with said computer virus scan, said additional operations including identifying a request to execute a computer program associated with said computer file to be scanned for computer viruses by said computer virus scanner; wherein said audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program; and

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(ii) in response to identification of said request to execute said computer program, generating audit data identifying said computer program; and

(iv) performing a concurrent usage check for identifying a request to execute a further computer program that would result in said further computer program concurrently executing upon more than a predetermined number of computers upon computer network; wherein said predetermined number varies with time; wherein if said concurrent usage check indicates that said request to execute said further computer program would result in more than said predetermined number of computers upon said computer network concurrently executing said computer program, then said request to execute said further computer program is denied.

Claim 37:

Apparatus for generating audit data indicative of a request to execute a computer prepare, said apparatus comprising:

(i) a computer virus scanner, responsive to a computer virus scan request, for performing a computer virus scan and for generating a scan result, said computer virus scan request including data identifying a computer file to be scanned for computer viruses;

(ii) an audit data generator separate from said computer virus scanner and being triggered by said computer virus scanner prior to said generating said scan result, and responsive to said data identifying said computer file to be scanned that is received from said computer virus scanner for

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simultaneously performing additional operations in parallel with said .computer virus scan, said additional operations including identifying a request to execute a computer program associated with said computer file to be scanned for computer viruses by said computer virus scanner and, in response to identification of said request to execute said computer program, generating audit data identifying said computer program; [[and]] wherein said audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program; and

concurrent usage monitor for performing a concurrent usage check for identifying a request to execute a further computer program that would result in said further computer program concurrently executing upon more than a predetermined number of computers upon a computer network; wherein said predetermined number varies with time; wherein if said concurrent usage check indicates that said request to execute said further computer program would result in more than said predetermined number of computers upon said computer network concurrently executing said computer program, then said request to execute said further computer program is denied.

Allowable Subject Matter

Claims 1, 2, 4, 5, 8, 10 – 20, 22, 23, 26, 28 – 38, 40, 41, 44, 46 – 54 and 58 – 61 are allowed.

The following is an examiner's statement of reasons for allowance:

The above mentioned claims are allowable over prior arts because the CPA (Cited Prior Art) of record fails to teach or render obvious the claimed limitations in combination with the specific added limitations, as recited in independent claims 1, 19 and 37.

The prior arts fail to teach or suggest a method of generating audit data indicative era request to execute a computer program, said method comprising the steps of: (i) responsive to a computer virus scan request within a computer virus scanner, performing a computer virus scan and generating a scan result, said computer virus scan request including data identifying a computer file to be scanned for computer viruses; (ii) triggering operation of an audit data generator which is separate from said computer virus scanner, using said computer virus scanner prior to said generating said scan result, said audit dam generator being responsive to said data identifying said computer file to be scanned that is received from said computer virus scanner for simultaneously performing additional operations in parallel with said computer virus scan, said additional operations including identifying a request to execute a computer program associated with said computer file to be scanned for computer viruses by said computer virus scanner; wherein said audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program; and (ii) in response to identification of said request to execute said computer program, generating audit data identifying said computer program; and (iv) performing a concurrent usage check for identifying a

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request to execute a further computer program that would result in said further computer program concurrently executing upon more than a predetermined number of computers upon computer network; wherein said predetermined number varies with time; wherein if said concurrent usage check indicates that said request to execute said further computer program would result in more than said predetermined number of computers upon said computer network concurrently executing said computer program, then said request to execute said further computer program is denied.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Longbit Chai whose telephone number is 571-272-3788. The examiner can normally be reached on Monday-Friday 8:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Longbit Chai

Examiner

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